

## OMAHA TRIBE OF NEBRASKA

P. O. Box 368  
Macy, Nebraska 68039

### EXECUTIVE OFFICER

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TRIBAL ADMINISTRATION

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### MEMBERS

Orville Cayou  
Eleanor Baxter  
Ansley Griffin

December 19, 2006

Smitty City West  
701 South 4<sup>th</sup> St.  
Pender, NE 68047

RE: Liquor license

Dear Sir or Madam:

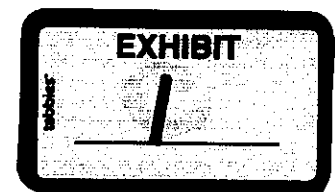
With this letter I have enclosed an application for your business to obtain a license from the Omaha Tribe of NE and IA. Please make the check or money order for the amount of the license(s) to: Omaha Tribe of NE, P.O. Box 368 Macy, NE 68039. We will not accept two party check or cash. With your application include a copy of your facility insurance as well as any other certifications you may have obtained from the State of NE. (i.e. food handlers certificate, etc.)

Please remit the 10% tax revenue from your retail sales to the Omaha Tribe of NE on a monthly basis, which we also would like to receive in our office on or before February 1, 2007. I would like to get all the information collected per facility as soon as possible and it would be appreciated if you could assist me in acquiring your data in a timely fashion.

The Omaha Tribe has set a timeline of January 1, 2007 for all licenses to be processed through the Omaha Tribal Liquor Control Commission.

Sincerely,

Ansley Griffin  
Omaha Tribal Liquor Commissioner  
Omaha Tribe of NE



**OMAHA TRIBAL CODE (2003)****TITLE 8. ALCOHOLIC BEVERAGE CONTROL****Table of Contents**

CHAPTER 1. ALCOHOLIC BEVERAGES .....	1
SECTION 8-1-1. Definition of Terms.....	1
SECTION 8-1-2. Public Policy Declared.....	2
SECTION 8-1-3. General Prohibition.....	2
SECTION 8-1-4. Director Appointed.....	2
SECTION 8-1-5. Removal.....	2
SECTION 8-1-6. Tribal Control of Importation of Liquor.....	2
SECTION 8-1-7. Individual and Firms To Hold License.....	3
SECTION 8-1-8. Tribal Liquor Stores or Lounges.....	3
SECTION 8-1-9. Vendor-Cash Sales.....	3
SECTION 8-1-10. Storage of Beverages.....	3
SECTION 8-1-11. Payment of Fee.....	3
SECTION 8-1-12. Request for Notice of Hearing.....	3
SECTION 8-1-13. Time and Place for Hearing.....	3
SECTION 8-1-14. Transfer of License.....	4
SECTION 8-1-15. Sale of Stock on Termination.....	4
SECTION 8-1-16. Complaints Authorized.....	4
SECTION 8-1-17. Revocation Proceedings.....	4
SECTION 8-1-18. Subpoena by Tribal Council.....	4
SECTION 8-1-19. Dismissal or Acceptance of Complaint.....	4
SECTION 8-1-20. Suspension in Lieu of Revocation.....	4
SECTION 8-1-21. Public Hearing Required.....	5
SECTION 8-1-22. Order of Revocation.....	5
SECTION 8-1-23. Waiting Period for New Licensee.....	5
SECTION 8-1-24. Appeal to the Omaha Tribal Court.....	5
SECTION 8-1-25. Bootlegging.....	5
SECTION 8-1-26. Sacramental Wines.....	5
CHAPTER 2. LIQUOR LICENSES AND SALES.....	5
SECTION 8-2-1. Power to License and Tax.....	6
SECTION 8-2-2. Classes of Licenses.....	6
SECTION 8-2-3. Acceptance or Rejection of License.....	6
SECTION 8-2-4. Domestication Requirement for Corporated Licenses.....	6
SECTION 8-2-5. Discretion of the Tribal Council.....	6
SECTION 8-2-6. Cancellation of Surety Bond.....	6
SECTION 8-2-7. Surety Bond.....	6
SECTION 8-2-8. Action of Bond for Injury.....	7
SECTION 8-2-9. Agreement by Licensee To Grant Access.....	7
SECTION 8-2-10. Duration of Licenses.....	7
SECTION 8-2-11. Refilling Prohibited.....	7
SECTION 8-2-12. Deliveries.....	7
SECTION 8-2-13. Prohibited Sales.....	7
SECTION 8-2-14. After Hours Sales.....	8
SECTION 8-2-15. Prohibited Sales.....	8
SECTION 8-2-16. Unsealed Packages in Public.....	8
SECTION 8-2-17. Prohibited Use.....	8
SECTION 8-2-18. Cash Sales Only.....	8
CHAPTER 3. SALES TAX .....	8
SECTION 8-3-1. Sales Tax Levied.....	8

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**TITLE 8. ALCOHOLIC BEVERAGE CONTROL**

## **OMAHA TRIBAL CODE (2003)**

CHAPTER 4. AGE REQUIREMENTS .....	8
SECTION 8-4-1. Sales to Persons Under 21 .....	8
SECTION 8-4-2. Purchase, Possession by Minor .....	9
SECTION 8-4-3. Evidence of Legal Age Demanded .....	9
CHAPTER 5. REVISION .....	9
SECTION 8-5-1. Severability .....	9
SECTION 8-5-2. All Prior Ordinances and Resolutions Repealed .....	9
SECTION 8-5-3. Amendment or Repeal of Title .....	9

## OMAHA TRIBAL CODE (2003)

### TITLE 8. ALCOHOLIC BEVERAGE CONTROL

*Source:* Omaha Tribal Council Ordinance No. 04-54 (6-15-04); amending No. 92-88; Omaha Tribal Council Resolution No. 92-88 (6-1-92); repealing No. 92-48 (12-17-91); repealing in part No. 85-89 (11-7-85). *See* 58 Fed. Reg. 8888-01 (2-17-93); 71 Fed. Reg. 10056 (2-28-06).

#### CHAPTER 1. ALCOHOLIC BEVERAGES

##### SECTION 8-1-1. Definition of Terms.

Terms used in this Title, unless the context otherwise plainly requires, shall mean as follows:

- (a) "Alcoholic Beverages" shall mean any intoxicating liquor, beer or any wine as defined under the provisions of this Title.
- (b) "Application" shall mean a formal written request for the issuance of a license supported by a verified statement of facts.
- (c) "Intoxicating Liquor" shall mean any liquid either commonly used, or reasonably adopted to use for beverage purposes, containing in excess of three and two-tenths percentum of alcohol by weight. This shall include any type of wine, regardless of alcohol content.
- (d) "Legal Age" shall mean the age requirements as defined in Chapter 4.
- (e) "Liquor Store" shall mean any store, established for the sale of alcoholic beverages.
- (f) "On-Sale Dealer" shall mean the Omaha Tribe of Nebraska, Tribal Citizen or other person, firm or entity that sells, or keeps for sale, any alcoholic beverages authorized under this Title for consumption on the premises where sold.
- (g) "On-Sale" shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.
- (h) "Off-Sale" shall mean the sale of any alcoholic beverage for consumption off the premises where sold.
- (i) "Package" shall mean the bottle or immediate container of any alcoholic beverage.
- (j) "Package Dealer" shall mean the Omaha Tribe of Nebraska, Tribal Citizen or any person, firm or entity as distinguished from a distiller, manufacturer, or wholesaler, that sells, or keeps for sale, any alcoholic beverage authorized under the Title for consumption off the premises where sold.
- (k) "Public Place" shall mean any place, building, or conveyance to which the public has or is permitted access.
- (l) "Retailer" shall mean Omaha Tribe of Nebraska, Tribal Citizen or any person, firm or entity that sells alcoholic beverages authorized under this Title for other than resale.
- (m) "Reservation" means all lands located within the exterior boundaries of the Reservation of the Tribe, and such other lands over which the Tribe exercises governmental authority.
- (n) "Sacramental Wine" shall mean wines for sacramental purposes only and used by ordained Rabbis, Priests, Ministers, or Pastors, or any church or established religious organization.
- (o) "Sale" shall mean the transfer of bottled or canned liquor for any consideration and of title to any alcoholic beverage.
- (p) "Tribal Citizen" or "Citizen of the Tribe" shall mean an enrolled member of the Tribe and persons eligible for enrollment.

## **OMAHA TRIBAL CODE (2003)**

- (q) "Tribal Council" shall mean the governing body of the Omaha Tribe of Nebraska.
- (r) "Tribe" shall mean the Omaha Tribe of Nebraska.
- (s) "Vendor" shall mean, in the case of a Tribal Citizen, any person employed and under the direct supervision of such Tribal Citizen to conduct and manage Tribal Citizen's liquor stores, and in the case of other persons, firms or entities, a vendor shall mean such person, firm or entity and any person employed and under the direct supervision of such person, firm or entity.
- (t) "Wholesaler" shall mean any person other than a brewer or bottler of beer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating liquor or beer; no wholesaler shall be permitted to sell for consumption upon the premises.
- (u) "Wine" shall mean any beverage containing alcohol obtained by the fermentation of the natural sugar content of fruits or other agricultural products, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and other fortified wines.
- (v) The terms, "the provisions of this Title," "as provided in this Title" or similar terms shall include all rules and regulations of the Tribe adopted to aid in the administration or enforcement of this Title.

### **SECTION 8-1-2. Public Policy Declared.**

This Title shall be cited as the "Alcoholic Beverage Control Title" and under the inherent sovereignty of the Omaha Tribe of Nebraska, shall be deemed an exercise of the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the Tribe, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be public policy that the traffic in alcoholic beverages if it affects the public interest of the people, should be regulated to the extent of prohibiting all traffic of liquor, except as provided in this Title.

### **SECTION 8-1-3. General Prohibition.**

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport intoxicating liquor or beer except upon the terms, conditions, limitations, and restrictions specified in this Title.

### **SECTION 8-1-4. Director Appointed.**

The Omaha Tribal Council shall appoint one of its members to serve as Director of Liquor Control. The Director shall not have an interest directly or indirectly in the transportation or sale of intoxicating liquor or beer, or in any building or property used in connection with such a business. The Director shall review liquor licenses, applications for liquor licenses and shall report to the Council on such matters. The Director shall serve at the pleasure of the Tribal Council.

### **SECTION 8-1-5. Removal.**

The Director may be removed for cause by the Omaha Tribal Council and such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the Tribe or the United States. The Director so removed shall be entitled to an opportunity to be heard before the Omaha Tribal Council before removal.

### **SECTION 8-1-6. Tribal Control of Importation of Liquor.**

The Tribal Council shall have the sole and exclusive right of authorizing importation, into the Reservation, of all forms of intoxicating liquor and beer, except as otherwise provided in this Title, and no person or organization shall so import any such intoxicating liquor or beer into the Reservation, unless authorized by the Tribal Council by the issuance of a Class C wholesaler's license. No licensed wholesaler or distillery shall sell any intoxicating liquor or beer within the Reservation to any person or organization

## **OMAHA TRIBAL CODE (2003)**

unless authorized by the Tribal Council and except as otherwise provided in this Title. It is the intent of this section to retain in the Tribal Council, exclusive control within the Reservation both as authorizer and controller of all alcoholic beverages sold by licensed wholesalers or distilleries within the Reservation or imported therein, and except as otherwise provided in this Title.

### **SECTION 8-1-7. Individual and Firms To Hold License.**

An individual person, as well as firms, corporations or other entities may hold a liquor license under the provisions of this Title. It is the intent of this Title to allow individuals as well as firms, corporations or other entities to hold liquor licenses, as provided by this Title.

### **SECTION 8-1-8. Tribal Liquor Stores or Lounges.**

Subject to the provisions of Chapter 2, the Tribal Council may establish and maintain anywhere on the Reservation the Tribal Council may deem advisable, a Tribal liquor store, lounge or stores or lounges for storage and sale of alcoholic beverages in accordance with the provisions of this Title.

### **SECTION 8-1-9. Vendor-Cash Sales.**

In the conduct and management of Tribal liquor stores and lounges, the Tribal Council is empowered to employ a person who shall be under the direct supervision of the Director, who shall be known as a "vendor" and who shall observe all provisions of this Title and rules and regulations that may be prescribed by the Tribal Council under this Title. No vendor shall sell alcoholic beverages to any person or organization except for cash, check, or credit card transaction, except where the purchaser is a bona fide registered guest in a hotel or motel.

### **SECTION 8-1-10. Storage of Beverages.**

The Omaha Tribe of Nebraska and all licensees under this Title shall not keep or store any alcoholic beverages at any place within the Omaha Tribe of Nebraska Reservation other than on the premises where they are authorized to operate and except as otherwise provided by this Title.

### **SECTION 8-1-11. Payment of Fee.**

There shall be a filing fee on applications for any licenses under this Title, as established by the Tribal Council.

### **SECTION 8-1-12. Request for Notice of Hearing.**

If any Tribal Citizen shall file with the Tribal Council, a written request that he or she be notified of the time and place of hearing upon any specified application or applications for licenses for the On- or Off-Sale at retail of alcoholic beverages, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purpose of this section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the schedule date of the hearing.

### **SECTION 8-1-13. Time and Place for Hearing.**

The Tribal Council shall fix a time and place for hearing upon all such applications which may come before the Tribal Council, and the Director shall publish notice once in a newspaper of general circulation within the Reservation which notice shall be headed "Notice of Hearing Upon Application for Sale of Alcoholic Beverage" and shall state the time and place, when and where such applications will be considered by the Tribal Council and that any person interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Tribal Council shall consider such applications and all objections thereto, if any, prior to final decision thereon.

## **OMAHA TRIBAL CODE (2003)**

### **SECTION 8-1-14. Transfer of License.**

No license granted pursuant to the provisions of this Title shall be transferred to another person or organization. If a transfer to a new location is requested by a licensee, the licensee must make application showing all the relevant facts as to such new application, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location; however, such licensee must pay the actual costs involved in the Notification of Hearing as published in the official newspaper.

### **SECTION 8-1-15. Sale of Stock on Termination.**

Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination, to any licensed wholesaler approved under the provisions of the Title to deal in alcoholic beverages as a wholesaler. A complete report of such purchase and sale must be made by both the wholesaler and licensee to the Tribal Council. At the discretion of the Tribal Council, an additional twenty (20) days extension to sell may be granted to the licensee by the Tribal Council.

### **SECTION 8-1-16. Complaints Authorized.**

Any person may file with the Tribal Council, a duly notarized complaint as to any violations of the provisions of this Title and immediately upon receipt thereof, the Tribal Council shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Tribal Council may revoke or suspend the license in question and/or take other appropriate action.

### **SECTION 8-1-17. Revocation Proceedings.**

The Tribal Council shall on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked or suspended.

### **SECTION 8-1-18. Subpoena by Tribal Council.**

For the purpose of conducting the hearing as prescribed above, the Tribal Council shall have the power to subpoena witnesses and to administer oaths. Witnesses so subpoenaed may be paid at the then prevailing witness rate which is established by the Tribal Council from time-to-time. Said witness fee may be paid from the Tribal Liquor Control Fund. The initial witness fee shall be \$20.00 per day. Criminal proceedings must be filed in the Tribal Court and may be instituted by the Tribal Council as Complainant against any violator except the Omaha Tribe of Nebraska.

### **SECTION 8-1-19. Dismissal or Acceptance of Complaint.**

If the Tribal Council determines the license should not be revoked or suspended, it shall dismiss the complaint. If the Tribal Council determines the license should be suspended or revoked and suspends or revokes such license, it must make in writing, findings of fact as to every such violation alleged in such complaint before it revokes or suspends such license, and must within thirty (30) days following the hearing, make a report available to the members of the Tribe consisting of a transcript of the proceedings had, and all findings as to every such violation alleged in such complaint.

### **SECTION 8-1-20. Suspension in Lieu of Revocation.**

The Tribal Council may, if the facts warrant, mitigate the revocation to a suspension. When in any proceedings upon verified complaint, the Tribal Council is satisfied that the nature of such violation and the circumstances thereof were such that a suspension of license would be adequate, it may suspend the license for a period not exceeding sixty (60) days, which suspension shall become effective twenty-four (24) hours after service of notice thereof upon the license. During the period of such suspension, such licensee shall exercise no rights or privileges whatsoever under the license.



## **OMAHA TRIBAL CODE (2003)**

### **SECTION 8-1-21. Public Hearing Required.**

All hearings under the provisions of this Title shall be public, and place of hearing shall be specifically designated in the notice of hearing.

### **SECTION 8-1-22. Order of Revocation.**

In any case where the Tribal Council approves a revocation of a license, it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee, all of such licensee's rights under such license shall terminate three (3) days after such notice, except in the event of a Stay on Appeal.

### **SECTION 8-1-23. Waiting Period for New Licensee.**

Any licensee, except the Omaha Tribe of Nebraska, whose license is revoked, shall not for a period of two (2) years thereafter, be granted any license under the provisions of this Title.

### **SECTION 8-1-24. Appeal to the Omaha Tribal Court.**

Any licensee whose license is revoked or suspended by the Tribal Council regardless of how the proceedings were instituted, may appeal from such revocation or suspension, to the Omaha Tribal Court within five (5) days after notice to the licensee of such revocation or suspension, and such appeal operate to stay all proceedings for a period of fifteen (15) days thereafter. Upon good cause shown, the Tribal Court may extend the stay an additional period of time but not to exceed thirty (30) additional days. The Tribal Council shall forthwith, upon such appeal being made, prepare a complete record in the proceedings and shall thereupon fix a time and place for hearing before the Tribal Court, due notice of such hearing shall be given to all concerned parties involved in the appeal. The Tribal Court shall review the proceeding before the Tribal Council on the record made before the Tribal Council utilizing the clearly erroneous standard of review for findings of fact.

### **SECTION 8-1-25. Bootlegging.**

Any person, who by himself, or through another acting for him, shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or beer with intent to sell or dispense of such liquor or beer or otherwise in violation of law; or who shall, within this Reservation in any manner, directly or indirectly solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or beer so ordered or shipped, or who shall in any manner procure for, sell, or give any alcoholic liquor or beer to any person under legal age, for any purpose except as authorized and permitted in this Title, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and to a jail sentence of not less than three (3) months, nor more than six (6) months, or both such fine and jail sentence plus costs. Proceedings under this Section involving Tribal Citizens shall be criminal in nature and heard before the Omaha Tribal Court.

Proceedings under this Section involving non-Tribal Citizens shall be deemed an administrative exercise of the Tribe's regulatory power and the fine for any one offense cannot exceed \$10,000.00 and no jail sentence may be imposed.

### **SECTION 8-1-26. Sacramental Wines.**

The provisions of this Title, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Omaha Tribe Reservation may buy sacramental wines from any person in such quantities as necessary for their religious purposes only.

## **CHAPTER 2. LIQUOR LICENSES AND SALES**

## **TITLE 8. ALCOHOLIC BEVERAGE CONTROL**



## OMAHA TRIBAL CODE (2003)

### SECTION 8-2-1. Power to License and Tax.

The power to establish licenses and levy taxes under the provisions of this Title is vested exclusively with the Tribal Council. The Tribal Council may levy an administrative fine for violations of this Title by those who are not Citizens of the Tribe, but such fines shall not exceed Ten Thousand Dollars (\$10,000.00) per violation.

### SECTION 8-2-2. Classes of Licenses.

Classes of licenses under this chapter with the fee for each class as established by the Tribal Council from time-to-time shall be as follows:

- (a) Class A Package Dealers: \$1,000.00
- (b) Class B On-Sale Dealers: \$1,500.00
- (c) Class C Wholesalers: \$500.00

### SECTION 8-2-3. Acceptance or Rejection of License.

In accepting or rejecting a request for a license, the Tribal Council shall consider the need of the area to be served for such liquor sales, the number of existing licensed businesses covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

### SECTION 8-2-4. Domestication Requirement for Corporated Licenses.

Any corporate, partnership or other entity applying for a Class A or Class B license under this chapter must be a corporation, partnership or entity organized under the laws of the Omaha Tribe of Nebraska, provided that if the applicant is a foreign corporation, partnership or entity, the applicant shall be deemed eligible if, prior to the application, it has complied with all the laws of the United States and the Tribe concerning doing business within the Omaha Reservation and submitted to the jurisdiction of the Tribe by appointing a resident agent for service of process. Individuals, partnerships, and other forms of business association shall be eligible to obtain all classes of licenses under this chapter.

### SECTION 8-2-5. Discretion of the Tribal Council.

Application for licenses under this chapter shall be submitted to the Tribal Council as specified in Chapter 1 of this Title and the Tribal Council shall have absolute discretion to approve or disapprove the same in accordance with the provisions of this Title.

### SECTION 8-2-6. Cancellation of Surety Bond.

Any surety may cancel any bond required under this Title as to future liability by giving thirty (30) days notice to the Tribal Council. Unless the licensee gives other sufficient surety by the end of the thirty (30) day period, the license shall be revoked automatically at the end of the thirty (30) days.

### SECTION 8-2-7. Surety Bond.

(a) Every application for a license under this Title, unless exempted by the Tribal Council, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of \$10,000.00 and must be in a form approved by the Tribal Council and it shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this Title and all existing laws relating to the conduct of its business and will promptly pay to the Omaha Tribe of Nebraska when due, all taxes and license fees payable by it under

## **OMAHA TRIBAL CODE (2003)**

the provisions of this Title and also any costs and cost penalty assessed against it in any judgment for violation of the terms of this Title.

(b) All bonds required by this Title shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

### **SECTION 8-2-8. Action of Bond for Injury.**

Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this Title shall have a direct right of acting upon the bond before the Tribal Council, and if the Tribal Council or the Tribe is the Complainant, before the Tribal Court, for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the injured.

### **SECTION 8-2-9. Agreement by Licensee To Grant Access.**

Every application for a license under this Title must include an agreement by the applicant that his premises, for the purpose of search and seizure laws shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Council or a duly appointed Tribal or Federal policeman, be open to inspection, and that all its books and records dealing with the sale of ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute an irrevocable contract between the licensee and the Omaha Tribe of Nebraska entitling the Tribe for the purpose of enforcing the provisions of this Title to inspect the premises and books at any time.

### **SECTION 8-2-10. Duration of Licenses.**

The period covered by the licenses under this Title shall be from 12 o'clock midnight on the 31st day of December to 12 o'clock midnight on the 31st of the following December, except that the license shall be valid for an additional thirty (30) days provided that proper application for a new license is in the possession of the Tribal Council prior to midnight on the 31st day of December when the license for a portion of such period, unless otherwise provided by this Title.

### **SECTION 8-2-11. Refilling Prohibited.**

No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this Title or refill any such package.

### **SECTION 8-2-12. Deliveries.**

No licensee under this Title shall make any delivery of alcoholic beverages outside the premises described in the license.

### **SECTION 8-2-13. Prohibited Sales.**

No vendor shall sell any intoxicating liquor:

- (a) to any person under legal age;
- (b) to any person who is intoxicated at the time, or who is known to the vendor to be a habitual drunkard;
- (c) to any person to whom the vendor has been requested in writing not to make such sale, where such request is by the Tribal Council, any police or peace officer, or the husband or wife of the person; or
- (d) to any mentally ill or mentally retarded person.

Any person who violates any of the provisions of this section shall be guilty of an offense and punished by

## **OMAHA TRIBAL CODE (2003)**

a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by both such fine and imprisonment with costs.

### **SECTION 8-2-14. After Hours Sales.**

No vendor shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license. The Tribal Council shall specify the hours of sale in the license issued to the vendor, provided that such hours of sale shall not be more extensive than those permitted from time to time.

### **SECTION 8-2-15. Prohibited Sales.**

No Class B licensed On-Sale establishment shall allow to be sold any alcoholic beverages in a package, whether sealed or unsealed, or whether full or partially full.

### **SECTION 8-2-16. Unsealed Packages in Public.**

No person shall have an unsealed package containing intoxicating liquor in his possession in any public place, other than in a duly licensed facility authorizing such broken seal.

### **SECTION 8-2-17. Prohibited Use.**

No person shall be permitted either to consume any intoxicating liquor or to mix or blend any intoxicating liquor or alcohol with any other beverage whether or not such other beverage is an alcoholic beverage, in any public place other than upon the premises of a licensed on-sale dealer as defined and authorized by this Title, and any vendor who knowingly permits such violation to occur upon the premises shall be equally responsible with the person performing the act for the violation of the terms thereof.

### **SECTION 8-2-18. Cash Sales Only.**

All sales of alcoholic beverage shall be made for cash, check or by credit card transaction except where the purchaser is a bonafide registered guest in a hotel or motel. No Licensee may extend credit for the purchase of alcoholic beverages or engage in any pawn business of any type.

## **CHAPTER 3. SALES TAX**

### **SECTION 8-3-1. Sales Tax Levied.**

There is hereby imposed a sales tax on the purchaser of alcoholic beverages from any retail licensee licensed under the provisions of this Title in the amount of ten precentum (10%) of the retail selling price. Such sales tax shall be deposited in a specific fund for use to prevent and control substance abuse on the Reservation.

## **CHAPTER 4. AGE REQUIREMENTS**

### **SECTION 8-4-1. Sales to Persons Under 21.**

It shall be unlawful to sell or give any alcoholic beverage to any person under the age of twenty-one (21) years. Any Tribal Citizen who violates this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by imprisonment in jail for not less than thirty (30) days nor more than one hundred eighty (180) days, or by both such fine and imprisonment with costs. Violations of this Section by persons or entities which are not Tribal Citizens may be regulated by the levy of an administrative fine not in excess of \$2,000.00 per violation following an opportunity for a hearing before the Tribal Council. The levy of an administrative fine by the Tribal Council under this Section is in addition to the power to suspend or revoke any license.

## **OMAHA TRIBAL CODE (2003)**

### **SECTION 8-4-2. Purchase, Possession by Minor.**

It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase, attempt to purchase or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00) or by imprisonment in the jail for a period not less than thirty (30) days nor more than one hundred twenty (120) days, or by both such fine and imprisonment with costs. Violating this Section by persons who are not Citizens of the Tribe may be regulated by the levy of an administrative fine not in excess of \$1,000.00 per violation following an opportunity for a hearing before the Tribal Council.

### **SECTION 8-4-3. Evidence of Legal Age Demanded.**

Upon attempt to purchase any alcoholic beverages in any liquor store licensed pursuant to this Title by any person who appears to the vendor to be under legal age, such vendor shall demand, and the prospective purchaser upon such demand, shall display satisfactory evidence that he or she is of legal age. Any person under legal age who presents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in Section 8-4-1 above.

## **CHAPTER 5. REVISION**

### **SECTION 8-5-1. Severability.**

If any section of any chapter of this Title or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter or Title shall not be affected thereby and shall remain in full force and effect as though no part thereof had been declared to be invalid.

### **SECTION 8-5-2. All Prior Ordinances and Resolutions Repealed.**

All prior Ordinances and Resolutions or provisions thereof that are repugnant or inconsistent to any provision of this Title are hereby repealed.

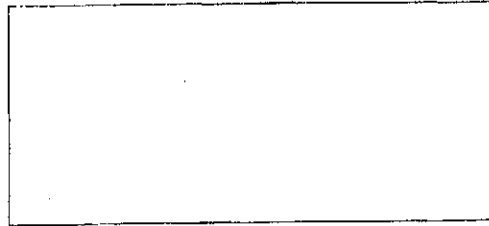
### **SECTION 8-5-3. Amendment or Repeal of Title.**

This Title may be amended or repealed only by majority vote of the Tribal Council in regular session.

*History:* Omaha Tribal Council Resolution No. 85-89 (11-7-85) forbids the sale of alcohol within the exterior boundaries of the Omaha Tribal Reservation, but it is now repealed.

## APPLICATION FOR LIQUOR LICENSE

DIRECTOR OF LIQUOR CONTROL  
 OMAHA TRIBE OF NEBRASKA  
 PO BOX 368  
 MACY, NE 68039  
 PHONE: (402) 837-5391  
 FAX: (402) 837-5308  
 Website: dlc.omaha-nsn.gov



OFFICE USE ONLY

 CLASS OF LICENSE FOR WHICH APPLICATION IS MADE AND FEES  
 CHECK DESIRED CLASS(S)

	CLASS	LICENSE(S)	FEE	BOND
<input type="checkbox"/>	A	Package Dealer	\$1,000.00	\$10,000_min.
<input type="checkbox"/>				
<input type="checkbox"/>	B	On Sale Dealer	\$1,500.00	\$10,000_min.
<input type="checkbox"/>				
<input type="checkbox"/>	C	Wholesaler	\$500.00	\$10,000_min.

☐  
☐  
☐  
  
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All licenses expire December 31st

## TYPE OF APPLICATION BEING APPLIED FOR (CHECK ONE)

- ☐ Individual License, requires insert form 1  
☐ Partnership License, requires insert form 2  
☐ Corporate License, requires insert form 3a and manager application 3b

## NAME OF PERSON OR FIRM ASSISTING WITH APPLICATION

(Director will call this person with any questions we may have)

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Firm address: \_\_\_\_\_

Form A

## Application for Sacramental Wine Permit

Director of Liquor Control  
Omaha Tribe of Nebraska  
Clearance #SW

Name: \_\_\_\_\_

Premise Address: \_\_\_\_\_

City: \_\_\_\_\_, Nebraska

Zip Code: \_\_\_\_\_

County: \_\_\_\_\_

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Contact: \_\_\_\_\_

Contact Address: \_\_\_\_\_

City: \_\_\_\_\_, Nebraska

Zip Code: \_\_\_\_\_

County: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Form SW  
§ 8-1-26

## Surety Bond of Licensee Under Alcoholic Beverage Control Title

### STANDARD FORM

KNOW ALL MEN BY THESE PRESENTS: That I, we, \_\_\_\_\_

of the County of \_\_\_\_\_, State of Nebraska, as Principal, and \_\_\_\_\_  
a corporation, organized and existing under and by virtue of the laws of the State of \_\_\_\_\_ and duly licensed to transact the  
business of surety insurance in the State of Nebraska, as Surety, are held and firmly bound unto the Omaha Tribe of Nebraska and the Director  
of Liquor Control, and each of them jointly or severally, in the penal sum of TEN THOUSAND DOLLARS (\$10,000.00) for the  
payment of which, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly, severally and firmly by these  
presents.

The condition of this obligation is such that,

WHEREAS, the said \_\_\_\_\_

has made application under the Alcoholic Beverage Control Title of the Omaha Tribal Code for a (circle one)

Class A Package Dealer License

Class B On Sale Dealer License

Class C Wholesalers License

and has paid or deposited all fees in connection therewith according to law.

NOW, THEREFORE, upon application for such license and continuing after the issuance of the same to the said principal above  
named, if the said principal herein above named shall faithfully perform all of the terms and conditions of said license, and shall promptly  
account for and pay to the proper authorities all lawful taxes, fees, assessments, and all fines, penalties and costs which shall become due from  
or shall be levied, charged or adjudged against said principal under the provisions of the Alcoholic Beverage Control Title of the Omaha  
Tribal Code by the Director, the Omaha Tribal Council, any Court or other lawful authority; and shall well, truly and faithfully comply as  
such licensee with all of the provisions of said Title of the Omaha Tribal Code and all future tribal liquor control laws which may be enacted  
during the term of such license or licenses, and shall well, truly and faithfully comply with all lawful rules and regulations during the term of  
said license or licenses, then this obligation shall be null and void.

OTHERWISE, to be and remain in full force and effect.

The penalty amount of this bond shall limit the liability of both the Principal and Surety for each license year during the period  
commencing on the effective date of this bond and terminating on the date the same is canceled, as hereinafter provided.

The surety on the bond of any licensee whose license has been issued by the Director of Liquor Control, may at any time notify the  
principal and the Director of Liquor Control that he desires after a date named, which shall be at least 30 days after the receipt of such  
notification, to be relieved of liability on said bond, with his reasons therefore.

THEREUPON, the rights of the principal under such license, as is supported by said bond, shall be terminated and canceled on the  
date specified, unless supported by other sufficient bond, or bonds, and the surety shall be relieved of liability on said bond for actions  
subsequent to said date of cancellation; but in no event will the surety be released until it shall have paid and discharged in full all liability  
upon said bond, for any default of the principal accruing during the life of said bond.

This Bond shall be effective during all proceedings involving the application for license under the Alcoholic Beverage Control Title  
for alcoholic beverage license and upon issuance of said license this bond shall continue until canceled as set forth herein above.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

Principal

Countersigned by

\_\_\_\_\_  
A Corporation

Resident Agent

By \_\_\_\_\_  
Surety

#### NOTICE

Bond will not be approved unless properly signed by applicant, whose signature shall be witnessed. It is also necessary that all bonds be signed by an official  
or agent of the bonding company, who holds an unexpired power-of-attorney from the bonding company and unexpired Nebraska license as agent for said  
company. An additional requirement is attachment of the seal of the bonding company and, if applicant is a corporation, their seal should also be attached



**LICENSE APPLICATION CHECKLIST**

Applicant Name \_\_\_\_\_ Telephone # \_\_\_\_\_

Trade Name \_\_\_\_\_ Previous Trade Name \_\_\_\_\_

Provide all the items requested. Failure to provide any item will cause this application to be returned or placed on hold. All documents must be legible. Any false statement or omission may result in the denial, suspension, cancellation or revocation of your license. Your operation depends on receiving a liquor license the Director of Liquor Control cautions you that if you purchase, remodel, start construction, spend or commit money that you do so at your own risk. Prior to submitting your application review the application carefully to ensure that all sections are complete, and that any omissions or errors have not been made. All applications & attachments must be submitted in triplicate. You may want to check with the city/village or county clerk, where you are making application, to see if any additional local requirements must be met before submitting application to the state.

**REQUIRED ATTACHMENTS**

EACH ITEM MUST BE CHECKED OFF AND INCLUDED OR MARKED N/A FOR NOT APPLICABLE

- ☐ 1. Fingerprint cards for each person (two cards per person) must be enclosed with a separate check payable to the Omaha Tribal Police for processing in the amount of \$48.00 for each person. All areas must be completed on cards as per brochure. To prevent the delay in issuing your license, we strongly suggest you go to a law enforcement agency to obtain fingerprint card.
- ☐ 2. Enclose application (Form A) and license fees for the appropriate class of license, made out to the Director of Liquor Control.
- ☐ 3. Enclose the appropriate additional application forms; Individual License - Form 1; Partnership License - Form 2; Corporate LLC License - Form 3a and Manager application - Form 3b(with corporate application). LLC application must include all members.
- ☐ 4. If building is being leased send a copy of the lease. Be sure it is in the individual(s) or corporate name being applied for. Also, the lease must extend through the license year being applied for. If building is owned, send a copy of the deed or purchase agreement in the appropriate name.
- ☐ 5. If you are buying the business of a current licensee, provide a copy of the purchase agreement from licensee.
- ☐ 6. Enclose a copy of the temporary agency agreement, if applicable. Must be on Liquor Control form only. Include a copy of the signature card from the bank showing both the sellers and buyers name(s) on account.
- ☐ 7. Copy of alcohol inventory being purchased. Inventory shall include brand names and container sizes. Inventory may be taken at the time application is being submitted.
- ☐ 8. Enclose a list of any inventory or property owned by other parties that are on the premise.
- ☐ 9. For individual and partnership applications enclose proof of citizenship birth certificates, or naturalization documents for all persons listed on application. Documents must be a certificate from the State, where born, not hospital certificate.

- ☐ 10. If a corporation enclose a copy of the articles of incorporation. This document must show receipt (barcode) by the Secretary of State's Office.

Mail checklist, all applications and attachments BY CERTIFIED MAIL to: Director of Liquor Control, Omaha Tribe,  
PO Box 368, Macy, NE 68309.

I acknowledge that this application is not a guarantee that a liquor license will be issued to me, and that the average processing period is 45-60 days. Furthermore, I understand that all the information is truthful and I accept all responsibility for any false documents.

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Signature

## OMAHA TRIBE OF NEBRASKA

P. O. Box 368  
Macy, Nebraska 68603

**EXECUTIVE OFFICER**  
Edward Butler, Chairman  
Orville Gayle, Vice-Chairman  
Cynthia Anderson, Treasurer  
Marilyn Taylor, Secretary



TRIBAL ADMINISTRATION

(402) 837-5391  
FAX (402) 837-5305

**MEMBERS**  
Muel Parker  
Barry Walker  
Lynn C. Wolden

### NOTICE

#### OMAHA TRIBAL COUNCIL

### ALCOHOLIC BEVERAGE CONTROL TITLE

**To: All manufacturers, importers, wholesalers, and retailers of alcoholic beverages within the Omaha Indian Reservation**

You are hereby notified that the Omaha Tribal Council now permits, subject to tribal regulation and taxation, the manufacture, importation, wholesale sale, and retail sale of certain alcoholic beverages within the Omaha Indian Reservation.

The Alcoholic Beverage Control Title, Title 3 of the Omaha Tribal Code, was approved by the Secretary of Interior on February 17, 1993, at 58 Fed. Reg. 8388. It was originally limited in its applicability to that portion of the Omaha Indian Reservation in Iowa. An amendment to the Alcoholic Beverage Control Title extending its applicability to that portion of the Omaha Indian Reservation in Nebraska was approved by the Secretary of Interior on February 28, 2006, published at 71 Fed. Reg. 10,055.

The Alcoholic Beverage Control Title requires tribal licenses of package dealers, on sale dealers, and wholesalers. It additionally imposes a sales tax on the purchaser of alcoholic beverages from any retail licensee in the amount of 10% of the retail selling price. The Alcoholic Beverage Control Title also establishes additional regulations governing the manufacture, importation, wholesale sale, and retail sale of certain alcoholic beverages within the Omaha Indian Reservation.

The Alcoholic Beverage Control Title became effective on the approval of the Secretary of Interior on February 28, 2006. The Omaha Tribal Council will begin fining any unlicensed package dealers, on sale dealers, and wholesalers within the Omaha Indian Reservation beginning January 1, 2007. You are encouraged to submit your license application by December 1, 2006, to insure that a license can be issued by January 1, 2007. All other provisions of the Alcoholic Beverage Control Title are now being enforced according to their terms.

The authority of tribal governments to regulate all liquor transactions in Indian country has been recognized and affirmed by Congress and the U.S. Supreme Court. See 18 U.S.C. § 1161; *U.S. v. Mazurie*, 419 U.S. 544 (1975); *Rice v. Rahner*, 463 U.S. 713 (1983). You are hereby notified that failure to comply with the terms of the Alcoholic Beverage Control Title may constitute a violation of both tribal and federal law.

For more information, please contact the Omaha Tribe's Director of Liquor Control, Densley G. Fina, at 402-837-5391.

EXHIBIT

2

Continued non-compliance will result in enforcement actions in Omaha Tribal Court. Please see the attached decision of the 8<sup>th</sup> Circuit Court of Appeals supporting a tribal court's authority to enforce tribal liquor laws. *City of Timber Lake v. Cheyenne River Sioux Tribe*, 10 F.3d 554 (8<sup>th</sup> Cir. 1993). To avoid enforcement action against you, please immediately contact the Omaha Tribe's Director of Liquor Control, Ansley Griffin, at 402-837-5391.